

REMARKS:

The Office Action dated September 13, 2007, has been received and carefully reviewed. The preceding amendments and the following remarks form a full and complete response thereto. By this amendment, claims 13 and 15-18 and 22-24 are amended. Claims 15-18 were amended as to format only. No new matter is added. Claims 12-24 are pending in the application and submitted for reconsideration.

The Applicant acknowledges the allowance of claims 19-21.

Claims 13-18 and 22-24 were rejected under 35 U.S.C. § 101, as allegedly failing to set forth statutory structure. The Applicant respectfully traverses the rejection and submits that claims 13-18 and 22-24 recited statutory subject matter under 35 U.S.C. § 101.

With respect to claims 13-18, these claims are written in means-plus-function format and invoke 35 U.S.C. § 112, para. 6. As explained in In re Donaldson, 16 F.3d 1189, 1193, 29 U.S.P.Q.2D (BNA) 1845, 1850 (Fed. Cir. 1994), the PTO is not exempt from following the statutory mandate of § 112 P 6, which reads:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

35 U.S.C. § 112, paragraph 6 (1988) (emphasis added). Here, the Office Action states that the claims are nothing more than a set of mathematical instructions without setting forth statutory subject matter. However, this interpretation of claims 13-18 is improperly broad. In re Alappat, 33 F.3d 1526, 1540; 31 U.S.P.Q.2D (BNA) 1545 (Fed. Cir. 1994). When properly construing claims 13 (upon which claims 14-18 depend) in accordance

with 35 U.S.C. § 112, para. 6, claims 13-18 cover at least the structure or structures disclosed in the specification for performing the recited functions. In this case, a loop simulation device 2 is illustrated in Fig. 1 and includes processing and data storage facilities for performing the recited functions. Further, claim 13 is amended to include additional statutory structure: a memory and display means. Clearly, claim 13 sufficiently recites structures that are statutory. Accordingly, the Applicant requests that the rejection to claims 13-18 be withdrawn.

With respect to claims 22-24, the Applicant has amended these claims to recite a computer-readable medium storing computer-executable instructions for determining and displaying an image of a knitting fabric corresponding to knitting fabric design data such that a loop of each stitch is represented. A computer readable medium encoded with a program is an element which defines structural and functional interrelationships between the program and the rest of the device which permit the program's functionality to be realized, and is thus statutory. MPEP § 2106(II)(B)(1)(a). Thus, claims 22-24 comply with the requirements of 35 U.S.C. § 101. Accordingly, the Applicant requests that the rejection to claims 22-24 be withdrawn.

In view of the above remarks, it is believed that the claims satisfy the requirements of the patent statutes and are patentable over the cited art. Reconsideration of the instant application and early notice of allowance are requested. The Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

In the event that this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

By



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